

§ 380.35

accommodations or services of the amounts payable and the persons or companies to whom payment is to be made, except that no disbursement shall be made that would reduce the balance in the account below the charter cost of the flight.

(3) On sales made to participants by a person other than a retail travel agent, the participant shall pay by check or money order payable to the bank. On sales made to participants by a retail travel agent, payments shall be made in the same manner unless the agent deducts its commission and remits the balance to the bank by check or money order. The agent may deduct its commission only if it agrees in writing with its principal (the charter operator or direct air carrier, as applicable) that, if the charter is canceled, the agent shall remit to the bank the full amount of the commission previously deducted or received within 10 days after receipt of notification of the cancellation. The depository bank shall pay refunds directly to participants according to the terms of the operator-participant contract and the terms of this rule.

(e) If the direct carrier substitutes a security agreement in addition to substituting a depository agreement, the charter prospectus information must include all the information required by paragraphs (c) and (d) of this section, except for the amount of the security agreement. That agreement shall be in an amount of at least \$10,000 times the number of flights, except that the amount need not be more than \$200,000.

(f) A copy of the depository agreement under paragraph (d) of this section shall be filed with the Board, and it shall not be effective until approved by the Board.

(g) A copy of the security agreement under paragraph (c) or paragraph (e) of this section shall be filed with the Board. It shall insure the financial responsibility of the direct air carrier for supplying the transportation and all other accommodations, services, and facilities in accordance with the contracts between the charter operator and the charter participants. Such security agreement shall meet all the other requirements of § 380.34 (c) and (d).

14 CFR Ch. II (1–1–98 Edition)

(Secs. 102, 204, 401, 402, 416 of the Federal Aviation Act of 1958, as amended; 92 Stat. 1706, 72 Stat. 743, 754, 757, 92 Stat. 1731; (49 U.S.C. 1302, 1324, 1371, 1372, 1386))

[SPR-166, 44 FR 50832, Aug. 30, 1979]

§ 380.35 Disbursements from depository account.

No charter operator or direct air carrier shall cause its agents or the depository bank to make disbursements or payments from deposits except in accordance with the provisions of this part.

(Secs. 102, 204, 401, 402, 416 of the Federal Aviation Act of 1958, as amended; 92 Stat. 1706, 72 Stat. 743, 754, 757, 92 Stat. 1731; (49 U.S.C. 1302, 1324, 1371, 1372, 1386))

[SPR-166, 44 FR 50833, Aug. 30, 1979]

§ 380.36 Record retention.

Every charter operator conducting a charter pursuant to this part shall comply with the applicable record-retention provisions of part 249 of this chapter.

Subpart D—Requirements Applicable to Direct Air Carriers

§ 380.40 Charter not to be performed unless compliance with part.

(a) For all Public Charters other than foreign-originating charters organized by foreign charter operators: A direct air carrier shall not perform air transportation in connection with such a charter unless it has made a reasonable effort to verify that all provisions of this part have been complied with and that the charter operator's authority under this part has not been suspended by the Board.

(b) For foreign-originating Public Charters organized by foreign charter operators: A direct air carrier shall not perform air transportation in connection with such a charter unless (1) the charter is conducted in accordance with Subpart B and § 380.42, and (2) the charter operator conforms to all requirements of this part that are applicable to charter operators within the Board's jurisdiction, other than §§ 380.25, 380.28, 380.30–36, and 380.50.

(Secs. 101(3), 204, 401, 402, 404, 407, 411, 416, and 1102 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, 760, 766,